IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

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| STATE OF WASHINGTON, | ) | NO. 61542-4-I |
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| Respondent, | ) | |
| | ) | |
| v. | ) | UNPUBLISHED OPINION |
| | ) | |
| RAYMOND SINGLETON, | ) | |
| | ) | |
| Appellant. | ) | FILED: August 3, 2009 |

BECKER, J. — Raymond Singleton claims that he was denied his right to due process when the State failed to give him written notice that it was seeking to revoke his Special Sex Offender Sentencing Alternative (SSOSA) sentence, failed to give notice of the alleged violations, and did not disclose the evidence against him. The record contradicts his claims. We affirm.

FACTS

Singleton was convicted in July 1999 of three counts of first degree child

molestation. The trial court imposed a SSOSA sentence. The court ordered 130-month terms of confinement for each count, to run concurrently, with all but 180 days suspended. To avoid revocation of the SSOSA, Singleton was notified he must comply with many conditions. For example, he was not allowed to: have contact with the victim; use or possess illegal or controlled substances without a written prescription; buy, possess, or use alcohol; possess or peruse pornographic materials unless approved by his sexual deviancy treatment specialist; or attend X-rated movies, peep shows, or adult book stores. He was required to enter and make reasonable progress in sexual deviancy therapy.

Singleton violated the conditions of his SSOSA many times, in many ways. For example, he had contact with his victim and unapproved contact with another minor, he engaged in romantic relationships without first informing his Community Corrections Officer (CCO), and he consumed alcohol and marijuana. Over the years, he was terminated from three different treatment programs. By June 2004, he had been found to have violated the conditions of his sentence five times. His CCO reported that Singleton was not making progress in treatment. He was warned that the State would ask the court to revoke his SSOSA if he did not comply. In July 22, 2005, the State asked the court to revoke his SSOSA, but the court gave Singleton another chance. The State noted in July 2006 that it was remarkable considering the number of Singleton's violations that his SSOSA had not been

revoked. Finally, in 2008, the court revoked Singleton's SSOSA after he admitted ingesting cocaine on two occasions.

ANALYSIS

Singleton argues that he was denied his right to due process because he did not receive written notice that the State was seeking revocation or notice of the specific violations, and the State did not disclose the evidence against him. His arguments fail.

A SSOSA may be revoked if a court is reasonably satisfied that an offender has not progressed satisfactorily in treatment or has violated a condition of his suspended sentence. State v. Dahl, 139 Wn.2d 678, 683, 990 P.2d 396 (1999). The due process rights afforded at a revocation hearing are different from those afforded at the time of trial because the revocation of a suspended sentence is not a criminal proceeding. Dahl, 139 Wn.2d at 683. A sexual offender facing SSOSA revocation is entitled to the same minimal due process rights as those afforded when probation or parole is revoked:

> (a) written notice of the claimed violations; (b) disclosure to the parolee of the evidence against him; (c) the opportunity to be heard; (d) the right to confront and cross-examine witnesses (unless there is good cause for not allowing confrontation); (e) a neutral and detached hearing body; and (f) a statement by the court as to the evidence relied upon and the reasons for the revocation.

Dahl, 139 Wn.2d at 683. The requirements are meant to ensure that the finding that an offender violated a term of a

suspended sentence is based upon verified facts. Dahl, 139 Wn.2d at 683.

Due process does not require the State to notify the offender in writing that it seeks to revoke a SSOSA: rather, due process requires written notice of the claimed violations. Dahl, 139 Wn.2d at 683. But even if Singleton was entitled to notice that the State intended to seek revocation, he apparently had notice. His defense counsel indicated at the February 20, 2008 revocation hearing that the State gave Singleton fair warning of its position.[1]

The transcript of the revocation hearing also indicates that Singleton was notified in writing of the alleged violations and that the State disclosed the evidence against him. The parties referred to two violations reports in which the State alleged that Singleton consumed cocaine. In addition, Singleton was given a report from his most recent treatment provider, which indicated that Singleton's progress in treatment was not satisfactory. His lawyer acknowledged the accuracy of the reports regarding the violations and stated that Singleton admitted them: "Ms. Johnson is correct, we would like to admit those violations. Your Honor, the information we have been provided appears to be very accurate."[2]

To satisfy due process, the offender must be notified of the alleged

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[1] February 20, 2008 Report of Proceedings at 28 ("Your Honor, Ms. Johnson gave us fair warning of what her position was.")

[2] February 20, 2008 Report of Proceedings at 5.

violations so he can gather the facts in his defense. Dahl, 139 Wn.2d at 684. Singleton argues that there is a reasonable probability he would not have admitted the violations if he had not been blindsided by them at the hearing. The record does not support his argument. Through counsel, Singleton admitted that he had written notice of the violations and he had copies of the evidence against him. He was not denied his right to due process.

Affirmed.

FOR THE COURT:

Becker, J.

Appelwick, J.

Schindler, CJ